

6216

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

D. Weiskopf

Civ. Pers.

FILE: B-191181

DATE: April 27, 1978

MATTER OF: Charles G. Moody

- DIGEST:**
1. Claims settlement denying portion of claim for work done in preparing additions to a technical report for use by the Navy is affirmed since no contract existed, claimant's additions were volunteered as an unsolicited proposal, naval officials with whom claimant dealt had no contracting authority, and Government is not bound by unauthorized acts of its agents.
 2. Claimant may not be paid interest on portion of claim allowed by claims settlement in the absence of a valid contract or a statute specifically providing for payment of interest.

This action is in response to a letter dated January 17, 1976, from Charles G. Moody, appealing the settlement issued by our Claims Division in Settlement Certificate No. Z-2726805, dated June 22, 1977, which allowed \$3,453.50 of Mr. Moody's claim for \$16,069 for research he performed without benefit of a contract with the United States. In his appeal, Mr. Moody seeks recovery of the full \$16,069 claimed, plus interest on any amount allowed.

Mr. Moody is a former grade GS-13 employee of the Ship Performance Department of the David W. Taylor Naval Ship Research and Development Center (Center) of the United States Navy where he was employed for 27- $\frac{1}{2}$ years until his retirement on November 30, 1971, upon his having attained the mandatory retirement age of 70. At the time of his retirement, Mr. Moody was working on various projects including the preparation of a technical report on the "Hydrodynamic Characteristics of Control Surfaces." The technical report was not completed during his employment at the Center, and

B-191181

Mr. Moody alleged that he worked in December 1971, and from January 1972 through the latter part of March 1972, completing and reviewing the report at the request of Dr. Cummins, Head of the Center's Ship Performance Department, and Mr. Hadler, who was Mr. Moody's supervisor during his employment at the Center. In September 1975 the Center published the technical report which included work performed by Mr. Moody in 1972, after his retirement. For this post-retirement work Mr. Moody submitted a claim for an amount equal to 2 months' pay at his previous salary level. Although there was no contract with the Government for Mr. Moody's work, Captain M. C. Davis, Commander of the Center adopted the recommendations of an administrative report prepared by Commander W. J. Moore, Senior Contracting Officer, that Mr. Moody should be compensated for 2 months' work performed in 1972 at his retirement grade GS-13, step 6 in the amount of \$3,453.50. The settlement of our Claims Division was issued in accordance with that recommendation.

Mr. Moody also alleged that from February 22, 1974, through the first week in August 1974, he worked on extensive and important additions to his report, for which work he claimed \$12,615.50 representing compensation for 5 months' work at his previous salary level. Our Claims Division disallowed that portion of Mr. Moody's claim, and it is that portion of the claim which is at issue here.

Mr. Moody does not allege that he had a contract, either oral or written, during the period he worked on the 1974 additions to his report. The administrative report states there is nothing to indicate that any authorization was given to Mr. Moody by anyone to proceed with the work he did on his own in 1974. Dr. Cummins states that he did not authorize any agreement or informal contract to do the work. When Mr. Moody pressed him along these lines he responded that contracts could not be let without going through the formal procedures. When Mr. Moody further indicated the additional work he had already done, Dr. Cummins states that he indicated that any such work could only be viewed as an unsolicited proposal, since there had been no authorization to perform the work. When Mr. Moody voluntarily presented his completed additional work, it came not as a proposal to do a job but as another completed draft which represents the 5 months' work for which he wants to be paid, and for which he wants the Center to cooperate with him in getting published and presented to a technical society. The results of Mr. Moody's efforts in 1974 were not acceptable.

B-191181

to the Technical Staff and were not used by the Center in the report which was finally published in September 1975. The report on "Hydrodynamic Characteristics of a Control Surface" published in September 1975 used only the works completed by Mr. Moody in March 1972.

Mr. Moody bases his claim for payment for the 1974 additions on an allegation that in 1975 Dr. Cummins proposed some payment for his post-retirement work, and Mr. Moody construes such promise to include approval of the 1974 additions. The administrative report disagrees with the version given by Mr. Moody and concludes that at all times Dr. Cummins advised Mr. Moody that payment for the 1974 additions could not be arranged outside of the proper procurement procedures. The administrative report also concludes that the 1974 additions were of no use or benefit to the Government, and recommends that Mr. Moody not be paid for such work.

Whether Dr. Cummins approved of the 1974 additions or not, he could not himself obligate the Government to pay for them. Agents of the Government must have actual authority to bind the United States, and parties entering into contractual arrangements with the United States are, as a matter of public policy, charged with the responsibility of accurately ascertaining the extent of the authority of the agent acting for the Government. See Matter of Jung Won Kim, B-182781, January 22, 1975, and cases cited therein. We have been advised by Mr. W. G. McDowell, Head of Procurement at the Center, that neither Dr. Cummins nor Mr. Hadler in the Ship Performance Department had authority to contract on behalf of the United States.

The record indicates that Mr. Moody presented his 1974 additions to Dr. Cummins in the hope that Dr. Cummins would review them and then arrange payment for them, even if he could not himself authorize payment. The actions of Mr. Moody were basically those of submitting an unsolicited proposal for which he now claims compensation for his preparation costs. By submitting an unsolicited proposal, Mr. Moody became a volunteer and as such is not entitled to compensation for his work in preparing the proposal. See Matter of International Explosive Services, Incorporated, B-183247, January 27, 1976.

B-191181

Regarding Mr. Moody's claim for interest on the amount allowed him for work performed for the period December 1971 through March 1972, it is well settled that the payment of interest by the Government on its unpaid accounts or claims may not be made except when interest is provided for in legal and proper contracts or when allowance interest is specifically directed by statute. See Matter of M. Rene Santoni, B-187677, April 14, 1977, and cases cited therein. There was no contract covering the 1974 additions and we are aware of no statute specifically directing payment of interest under the circumstances presented.

Accordingly, the disallowance by our Claims Division of Mr. Moody's claim for \$12,615.50 for 5 months' work in 1974 is sustained. Also, his claim for interest on the amount allowed him for work performed for the period December 1971 through March 1972, is disallowed.


Deputy Comptroller General
of the United States

UNITED STATES GOVERNMENT

GENERAL ACCOUNTING OFFICE

Memorandum

TO : Director, Claims Division

April 27, 1978

FROM : Deputy
Comptroller General *R. F. Kellum*

SUBJECT: Claim for compensation plus interest - B-191181-O.M.

Returned herewith is file Z-2726805 along with a copy of our decision of today B-191181, affirming your settlement of June 22, 1977.

Attachments

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